

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

VAZQUEZ COMMERCIAL  
CONTRACTING, LLC

Plaintiff

vs.

Case No. 20-cv-0486-DGK

ZIESON CONSTRUCTION  
COMPANY, LLC; SIMCON CORP  
MONIA HAAVIG,  
TORGENSON ELECTRIC  
COMPANY, INC.; MCPHERSON  
CONTRACTORS, LLC; MLT  
INVESTMENTS, LLC; METS, LLC;  
HAAVIG & ASSOCIATES, L.L.C.;  
ZURICH AMERICAN INSURANCE  
COMPANY; CHPB Sub 1, LLC F/K/A  
TRUSS, LLC; MICHAEL PATRICK  
DINGLE; MATTHEW MCPHERSON;  
STEPHON ZIEGLER; RUSTIN  
SIMON.

Defendants,

**DEFENDANT MICHAEL PATRICK DINGLE’S MOTION  
TO DISMISS PETITION FOR DAMAGES**

Pursuant to Federal Rules of civil procedure 8(a), 9(b), and 12(b)(6), defendant Michael Patrick Dingle hereby moves to dismiss all claims against Mr. Dingle, with prejudice. Plaintiff’s Petition for Damages alleges eight claims against Mr. Dingle: (1) Violation of the Federal Racketeer Influenced and Corrupt Organizations Act (“RICO”) § 1962(c)(Count I), (2) Violation of RICO § 1962(a)(Count II), (3) Violation of RICO § 1962(d)(Count III), (4) Negligence (Count V), (5) Negligent Misrepresentation (Count VI), (6) Unjust enrichment (Count VII), (7) Tortious Interference (Count VIII), (8) Civil Conspiracy (Count IX). Each of these claims fails as a matter

of law to state any plausible claim for relief against Mr. Dingle, as further explained in Dingle's Suggestions in Support of this Motion to Dismiss.

Dated: November 18, 2020

Respectfully submitted,

VAN OSDOL, P.C.

By: /s/Thomas M. Bradshaw

Thomas M. Bradshaw, MO #20411

1000 Walnut Street, Suite 1500

Kansas City, Missouri 64106

Phone: (816) 421-0644

Fax: (816) 421-0758

[TBradshaw@VanOsdolKC.com](mailto:TBradshaw@VanOsdolKC.com)

MORGAN PILATE LLC

By: /s/Melanie S. Morgan

Melanie Morgan, MO #58084

926 Cherry Street

Kansas City, Missouri 64106

Phone: (816) 471-6694

Fax: (816) 472-3516

[mmorgan@morganpilate.com](mailto:mmorgan@morganpilate.com)

*Attorneys for Defendant Michael Patrick  
Dingle*

## **CERTIFICATE OF SERVICE**

On this 18th day of November, 2020, I hereby certify that I served a true and correct copy of the above and foregoing upon counsel of record filing the same electronically with the Court's Electronic Case Management System, which effects service via email upon parties of record.

/s/ Thomas M. Bradshaw

Attorney for Defendant Michael Patrick Dingle

Debra Bogο-Ernst  
Mayer Brown, LLP – Chicago  
71 South Wacker Drive  
Chicago, IL 60606-4637  
312-701-7403  
Email: [dernst@mayerbrown.com](mailto:dernst@mayerbrown.com)  
*Attorney for Zurich American Insurance Company*

Carol Z. Smith  
Dysart, Taylor, Cotter, McMonigle & Montemore, P.C.  
4420 Madison Avenue  
Suite 200  
Kansas City, MO 64111  
816-931-2700  
Fax: 816-931-7377  
Email: [csmith@dysarttaylor.com](mailto:csmith@dysarttaylor.com)  
*Attorney for Zurich American Insurance Company*

Katrina L. Smeltzer  
Sandberg Phoenix & von Gontard P.C.  
4600 Madison Avenue Suite 1000  
Kansas City, MO 64112  
[ksmeltzer@sandbergphoenix.com](mailto:ksmeltzer@sandbergphoenix.com)  
*Attorneys for Defendant CHPB Sub 1, LLC, f/k/a Truss, LLC*

Mary Anne Mellow  
Philip C. Graham  
Sandberg Phoenix & von Gontard P.C.  
600 Washington Ave. 15th Floor  
St. Louis, MO 63101-1313  
[mmellow@sandbergphoenix.com](mailto:mmellow@sandbergphoenix.com)  
[pgraham@sandbergphoenix.com](mailto:pgraham@sandbergphoenix.com)  
*Attorneys for Defendant CHPB Sub 1, LLC, f/k/a Truss, LLC*

Jean Paul Bradshaw II  
Jennifer Hannah  
Taryn A. Nash  
Lathrop GPM LLP  
2345 Grand Boulevard Suite 2200  
Kansas City, MO 64108-2618  
816-292-2000  
[jennifer.hannah@lathropgpm.com](mailto:jennifer.hannah@lathropgpm.com)  
[jeanpaul.bradshaw@lathropgpm.com](mailto:jeanpaul.bradshaw@lathropgpm.com)  
[taryn.nash@lathropgpm.com](mailto:taryn.nash@lathropgpm.com)  
*Attorneys for Defendant Torgeson Electric Company*

Mark E. Parrish  
Joshua A. Sanders  
Erica Fumagalli  
Boyd Kenter Thomas & Parrish, LLC  
P O Box 1099  
221 West Lexington Ave. Suite 200  
Independence, MO 64051  
(816) 471-4511  
[mparrish@bktplaw.com](mailto:mparrish@bktplaw.com)  
[jsanders@bktplaw.com](mailto:jsanders@bktplaw.com)  
[efumagalli@bktplaw.com](mailto:efumagalli@bktplaw.com)  
*Attorneys for Plaintiff Vazquez Commercial Contracting, LLC*

Courtney Steelman  
Husch Blackwell LLP  
4801 Main Street Suite 1000  
Kansas City, MO 64112-2551  
[Courtney.steelman@huschblackwell.com](mailto:Courtney.steelman@huschblackwell.com)  
*Attorneys for Simcon Corp. and Rustin Simon*